

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

In re:

**JON D. LURIA
ELLEN K. LURIA,**

Debtors.

CHAPTER 7

CASE NO. 10-14274-SSM

**GMAC MORTGAGE, LLC AS
SERVICER FOR THE BANK OF NEW
YORK MELLON TRUST COMPANY,
N.A. F/K/A THE BANK OF NEW YORK
TRUST COMPANY, N.A., AS
SUCCESSOR-IN-INTEREST TO
JPMORGAN CHASE BANK, N.A. F/K/A
JPMORGAN CHASE BANK, AS
TRUSTEE FOR MASTR ADJUSTABLE
RATE MORTGAGES TRUST 2004-8,
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2004-8,**

Plaintiff.

vs.

**JON D. LURIA
ELLEN K. LURIA
GORDON P. PEYTON, TRUSTEE,**

Defendants.

MOTION FOR RELIEF

NOTICE

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WISH THE COURT TO GRANT THE RELIEF SOUGHT IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS MOTION, YOU MUST FILE A WRITTEN RESPONSE EXPLAINING YOUR POSITION WITH THE COURT AND SERVE A COPY ON THE MOVANT. UNLESS A WRITTEN RESPONSE IS FILED AND SERVED WITHIN THIS FOURTEEN (14) DAY PERIOD, THE COURT MAY DEEM OPPOSITION WAIVED, TREAT THE MOTION AS CONCEDED, AND ISSUE AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT FURTHER NOTICE OR HEARING.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE EXPIRATION OF THE FOURTEEN (14) DAY PERIOD.

ATTEND THE PRELIMINARY HEARING SCHEDULED TO BE HELD ON JULY 7, 2010 AT 9:30 AM IN THE U.S. BANKRUPTCY COURT, ALEXANDRIA DIVISION, 200 SOUTH WASHINGTON STREET, ALEXANDRIA, VA – COURTROOM # 1, 2ND FLOOR.

NOTICE FROM SAMUEL I. WHITE, P.C.

PURSUANT TO THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, WE ADVISE YOU THAT SAMUEL I. WHITE, P.C., COUNSEL FOR THE PLAINTIFF, IS A DEBT COLLECTOR, ATTEMPTING TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION WE OBTAIN FROM YOU WILL BE USED FOR THAT PURPOSE.

MOTION FOR RELIEF

The Motion of GMAC Mortgage, LLC as Servicer for The Bank of New York Mellon Trust Company, N.A. f/k/a The Bank of New York Trust Company, N.A., as successor-in-interest to JPMorgan Chase Bank, N.A. f/k/a JPMorgan Chase Bank, as Trustee for MASTR Adjustable Rate Mortgages Trust 2004-8, Mortgage Pass-Through Certificates, Series 2004-8, by Counsel, hereby moves the Court for relief from the automatic stay and in support thereof represents unto the Court:

1. This Court has Jurisdiction over this proceeding pursuant to 28 U. S. C. Sections 157 and 1334 and 11 U. S. C. 362 (d), and that this matter is a core proceeding.
2. The Debtors filed a Petition under Chapter 7 of the Bankruptcy Code on May 24, 2010.
3. The Debtors are the owners of the real property located at 7024 Green Oak Drive, McLean, VA 22101, which property is described as:

All that certain land located in Fairfax County, Virginia and being more particularly described as follows:

BEGINNING at an existing iron pipe, said pipe being the northeastern corner of the parcel and common to the parcel herein described, Lot 2D Payne and n/f Payne, and runs thence with the line of n/f Payne NORTH 79 DEGREES 57 MINUTES 00 SECONDS WEST, 99.78 FEET to an existing iron pipe; thence continuing with the line of n/f Payne NORTH 27 DEGREES 20 MINUTES 00 SECONDS EAST, 586.95 FEET to a point in the Potomac River, passing over an existing iron pipe located on the southern edge of a Potomac Power Company easement at 507.50 feet; thence with the northern edge of said

Potomac Power Company easements NORTH 89 DEGREES 50 MINUTES 40 SECONDS EAST, 285.54 FEET to a point in the Potomac River common to the property herein described and Lot 2D Payne and runs thence with the line of Lot 2D Payne SOUTH 40 DEGREES 15 MINUTES 00 SECONDS WEST, 707.00 FEET, passing over an existing iron pipe at 151.00 feet to the beginning, containing 2.406 acres more or less.

TOGETHER WITH a non-exclusive easement for ingress/egress purposes as set forth in the instrument recorded in Deed Book 8003 at page 219 among the aforesaid land records.

4. Upon information and belief, Plaintiff is the holder and/or servicer of a certain Deed of Trust Note dated June 25, 2004, which Note is secured by a Deed of Trust of even date therewith and duly recorded.

5. The account is in arrears for 33 monthly mortgage installments. The approximate reinstatement amount through June 10, 2010 is \$818,678.80, calculated as follows:

1 monthly payment (9/1/2007) @ \$35,622.51/month	\$35,622.51
4 monthly payments (10/01/07-01/01/08) @ \$30,595.04/month	\$122,380.16
6 monthly payments (02/01/08-07/01/08) @ \$29,051.29/month	\$174,307.74
6 monthly payments (08/01/08-01/01/09) @ \$22,876.29/month	\$137,257.74
6 monthly payments (02/01/09-07/01/09) @ \$22,104.41/month	\$132,626.46
6 monthly payments (08/01/09-01/01/10) @ \$17,859.10/month	\$107,154.60
5 monthly payments (02/01/10-06/01/10) @ \$15,543.48/month	\$77,717.40
Accrued Late Charges	29,466.17
Property Inspection Fees	354.38
BPO Fees	500.00
Property Preservation Fees and Costs	56.00
Foreclosure Fees and Costs	435.64
Bankruptcy Fees and Costs - Motion For Relief	800.00
Total	\$818,678.80

6. The unpaid principal balance due on said note is \$3,705,000.00, and the present approximate payoff balance is \$4,537,100.00.

7. It is the opinion of the Plaintiff that the Debtors are financially unable to maintain said obligation and that Plaintiff will suffer irreparable injury, loss and damage if it is not permitted to foreclose upon its security interest; otherwise Plaintiff is without adequate protection.

WHEREFORE, Plaintiff prays that it be granted relief from the provisions of the automatic stay with regard to the said real property in order to pursue its rights pursuant to the terms of the Note and Deed of Trust, to include the institution of foreclosure proceedings, and further requests that the fourteen (14) day stay be waived incident to any Order entered incident to the Motion for Relief herein.

GMAC MORTGAGE, LLC AS SERVICER FOR THE
BANK OF NEW YORK MELLON TRUST COMPANY,
N.A. F/K/A THE BANK OF NEW YORK TRUST
COMPANY, N.A., AS SUCCESSOR-IN-INTEREST
TO JPMORGAN CHASE BANK, N.A. F/K/A
JPMORGAN CHASE BANK, AS TRUSTEE FOR
MASTR ADJUSTABLE RATE MORTGAGES TRUST
2004-8, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2004-8

By: **/s/ ERIC DAVID WHITE**

Of Counsel

Samuel I. White, P. C.

Eric David White, Esquire, VSBN 21346

Randa S. Azzam, Esquire, VSBN 31539

D. Carol Sasser, Esquire, VSBN 28422

1804 Staples Mill Road, Suite 200

Richmond, VA 23230

CERTIFICATE

I hereby certify that a true copy of the foregoing Motion and Notice of Hearing was served by regular mail or email this 10th day of June, 2010, on all necessary parties including Gordon P. Peyton, Esquire, Trustee, 510 King Street, Suite 301, Alexandria, VA 22314; Robert M. Marino, Esquire, Counsel for Debtors, 510 King Street, Suite 301, Alexandria, VA 22314-3143; and Jon D. Luria and Ellen K. Luria, Debtors, 7024 Green Oak Drive, McLean, VA 22101.

/s/ ERIC DAVID WHITE

Samuel I. White, P. C.